

BOARD OF CERTIFIED REPORTERS

Meeting Agenda – Thursday, April 12, 2018

Arizona Supreme Court - 1501 West Washington Street

Phoenix, Arizona 85007 - **10:00 A.M.** - Conference Room 109

General Inquiries Call: (602) 452-3378 (Certification and Licensing Division Line)

Members of the Public May Attend Meeting in Person

For any item listed on the agenda, the Board may vote to go into Executive Session for advice of counsel and/or to discuss records and information exempt by law or rule from public inspection, pursuant to the Arizona Code of Judicial Administration, Code Section 1-202(C).

CALL TO ORDER *G. Allen Sonntag, Chair*

1) REVIEW AND APPROVAL OF MINUTES *G. Allen Sonntag, Chair*

1-A: Review and approval of the regular session minutes for the meeting of December 7, 2017.

2) PENDING COMPLAINTS.....*Division Staff*

2-A Review, discussion and possible action regarding complaint number 17-C002, involving certified court reporter, Rochelle Dobbins.

2-B Review, discussion and possible action regarding complaint number 17-C001, involving certified court reporter, Kimberly Bata.

2-C: Update regarding the status of pending complaints.

3) INITIAL CERTIFICATION AND ELIGIBILITY.....*Division Staff*

3-A: Review, discussion and possible action regarding pending initial certification applications for the following applicants:

- 1. Stacey Sandoval*
- 2. Jeannine Lane*
- 3. Victoria Pittman*
- 4. Mary Barrows*
- 5. Michelle Kirkpatrick*
- 6. Stacy Harlow*
- 7. Benjamin Bamford*

4) CERTIFICATION AND ELIGIBILITY.....Division Staff

4-A: Review, discussion and possible action regarding request for placement on Inactive Status received from the following certified reporters:

1. Lori Beard, Certificate Number 50773
2. Lisa Blanks, Certificate Number 50599
3. Kathleen Braley, Certificate Number 50236
4. Bernadette Chari, Certificate Number 50748
5. Laurel Dunn, Certificate Number 50696
6. Kathleen Johnston, Certificate Number 50164
7. Marilou Kohut, Certificate Number 50840
8. Christine Olesek, Certificate Number 50128
9. Diane Pessagno, Certificate Number 50943
10. Nicole Sesta, Certificate Number 50854

4-B: Review, discussion and possible action regarding requests for Voluntary Surrender from Holly Sack.

5) ADMINISTRATIVE ISSUES.....Division Staff

CALL TO THE PUBLIC G. Allen Sonntag, Chair

ADJOURNMENT G. Allen Sonntag, Chair

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1) REVIEW AND APPROVAL OF MINUTES

1-A: Review and approval of the regular session minutes for the meeting of December 7, 2017.

Attached for the Board's review are the regular session minutes from the Board meeting of December 7, 2017.

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2) PENDING COMPLAINTS

- 2-A *Review, discussion and possible action regarding complaint number 17-C002, involving certified court reporter, Rochelle Dobbins.*

Court of Appeals, Division One, Judge Kenton Jones, entered an Order on November 6, 2017 following an Order to Show Cause hearing held on November 1, 2017, at which time the Court found that Rochelle Dobbins was in contempt of court for her failure to follow through on what she had requested, and the Court agreed to, regarding Ms. Dobbins creating a payment plan for \$1,425.00 in sanctions assessed against her in *State v. Evans*.

In addition, at the time of the November 1, 2017 Order to Show Cause hearing, Ms. Dobbins owed \$300.00 in sanctions she incurred in January 2017, by separate order of Judge Samuel Thumma, for Ms. Dobbins' failure to timely file transcripts of trial proceeding in *State v. Parada*.

In *State v. Evans*, Ms. Dobbins was required to file transcripts of trial proceedings by September 14, 2017 but did not file the transcripts and did not timely file a motion for extension of time by September 13, 2017, as required by Administrative Order 2015-01. Ms. Dobbins filed a motion for extension of time on October 3, 2017, but did so after the Clerk of the Court realized that the transcripts were delinquent some 19 days and set an Order to Show Cause hearing to be held on October 6, 2017. Ms. Dobbins attended the Order to Show Cause hearing of October 6, 2017 and the Court issued the \$1,425.00 sanction. At the Order to Show Cause hearing, Ms. Dobbins requested and was granted permission by the Court to arrange a payment plan with the Clerk of the Court, but Ms. Dobbins did not do so, prompting the Order to Show Cause hearing held on November 1, 2017.

Due to a technical glitch, the Court's entered order of October 11, 2017 may not have been issued to Ms. Dobbins.

In *State v. Parada*, Ms. Dobbins was required to file the transcripts of trial proceedings by December 12, 2016, but she did not timely file those transcripts and did not timely file a motion for extension of time to file the transcripts, as required by Administrative Order 2015-01. The Court set an Order to Show Cause hearing to be held on January 4, 2017, at which time Ms. Dobbins requested an extension of time to file the transcripts until January 6, 2017. Ms. Dobbins did not comply with the deadline she had requested and, instead, filed the transcripts on January 10, 2017. The Court sanctioned Ms. Dobbins \$300.00 which reflected \$75.00 per day for each day that the transcripts were late.

Ms. Dobbins did not pay the \$300.00 sanction nor did she contact the Clerk of the Court's Office. A deputy clerk sent an email to Ms. Dobbins on January 27, 2017 requesting that payment be made by the close of business on February 3, 2017. On February 2, 2017, after efforts to contact Ms. Dobbins, the deputy clerk contacted the Superior Court requesting assistance in contacting Ms. Dobbins.

The outstanding \$300.00 sanction was addressed by Judge Kenton Jones at the November 1, 2017 Order to Show Cause hearing, whereby Ms. Dobbins was held in criminal contempt and faced possible arrest by law enforcement officers, present in the courtroom, until and unless Ms. Dobbins agreed to pay \$400.00 before leaving the building and to paying \$200.00 at the first of each month until the \$1,725.00 in imposed sanctions are satisfied in full. After the November 1, 2017 Order to Show Cause hearing, Ms. Dobbins paid the \$400.00 and has been making \$200.00 payments on the first of each month as ordered by the Court.

Recommendation:

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Rochelle Dobbins has committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 17-C002.

It is recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration (“ACJA”) § 7-201(H)(6)(a) for act(s) of misconduct involving: (a) ACJA §§ 7-206(J)(1)(a), 7-206(J)(2)(c), 7-206(J)(4)(c), 7-206(J)(6)(a), 7-201(H)(6)(k)(2) and (12); Court of Appeals, Division One, Administrative Order 2015-01; Rules of Criminal Procedure Rules 31.8(b)(1), (b)(2)(ii), and (d)(3)(i) and (ii) and Rule 31.9(a),(b) and (c) for failure to timely prepare and file transcripts in *State v. Parada*; (b) ACJA §§ 7-206(J)(1)(a), 7-206(J)(2)(c), 7-206(J)(6)(a), and 7-201(H)(6)(k)(2) and (12) for failure to timely pay the Court ordered sanctions in *State v. Parada* and for being found in criminal contempt; and (c) ACJA §§ 7-206(J)(1)(a), 7-206(J)(2)(c), 7-206(J)(4)(c), 7-206(J)(6)(a), 7-201(H)(6)(k)(2) and (12); Court of Appeals, Division One, Administrative Order 2015-01; Rules of Criminal Procedure Rules 31.8(b)(1),(b)(2)(ii), and (d)(3)(i)for failure to timely prepare and file transcripts in *State v. Evans*.

It is further recommended the Board suspend the license of Rochelle Dobbins for 30 days.

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2) PENDING COMPLAINTS

2-B Review, discussion and possible action regarding complaint number 17-C001, involving certified court reporter, Kimberly Bata.

On May 31, 2017, the Division received a complaint against certificate holder Kimberly Bata alleging inappropriate and unprofessional conduct while transcribing a deposition. The complainant alleged he overheard Bata, during a break in the proceedings, say to opposing council that she wanted to catch him in a “lie today.” The comment was not only corroborated by the videographer in attendance, but also expanded upon by him.

The videographer added that in his opinion Bata made numerous unprofessional snide remarks implying untruthfulness about the witness throughout the deposition. Further credence of the allegation was not only Bata’s sarcastic reference to the complainant’s use of “Spanglish,” but also her accusations of his untruthfulness both in her written response and interview. The case was investigated and on January 22, 2018, Probable Cause Evaluator, Mike Baumstark determined that probable cause does exist for the allegation.

Recommendation:

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Kim Bata has committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 17-C001.

It is recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration (“ACJA”) § 7-201(H)(6)(a) for act(s) of misconduct involving violation of ACJA § 7-206(J)(1)(a) as described in the Investigation Summary and Allegation Analysis Report.

It is further recommended the Board issue a censure to Kim Bata.

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2) PENDING COMPLAINTS

2-C: Update regarding the status of pending complaints.

As of April 12, 2018, there are currently two open complaints, both of which have been presented on this agenda with dispositive recommendations under agenda items 2A and 2B.

CERTIFIED REPORTER COMPLAINTS COURTOOLS MEASURE 4 AGE OF PENDING CASELOAD Shaded Areas Represent Cases within Time Standard of 22 Months

Age (Months)	Number Cases	Percent	Cumulative Percent
0-4	0		
5-9	1	50%	50%
10-14	1	50%	100%
15-19	0		
20-22	0		
23-35			
36-50			
Over 50			
Total	2	100%	100%

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3) INITIAL CERTIFICATION AND ELIGIBILITY

3-A: Review, discussion and possible action regarding pending initial certification applications for the following applicants:

The following applicants have applied for initial Certified Reporter certification. The applicants successfully passed the program examination and have submitted completed applications demonstrating that they meet the minimum education requirements and have provided proof of passing the RPR or the CVR.

The Division recommends approval of initial certified reporter certification for the following applicants:

1. Stacey Sandoval
2. Jeannine Lane
3. Victoria Pittman

4. Mary Barrows applied for initial Certified Reporter certification. Ms. Barrows successfully passed the program examination and has submitted a completed application demonstrating that she meets the minimum education requirements and has provided proof of passing the RPR or the CVR. Ms. Barrows disclosed a 2016 dissolution of marriage and 12 civil judgment cases in which she was listed as the defendant. The majority of these cases seem to be debt related to medical expenses and have since been dismissed or given a satisfaction of judgment.

The Board deferred this application from the December 7, 2017 meeting, expressing concerns regarding Ms. Barrows' involvement in multiple judgement cases and her inability to pay back expenses in a timely manner. It was also noted that the file was missing confirmation of Ms. Barrows passing the RPR and the program's examination.

The Division recommends approval of initial certification for Mary Barrows with an effective date of March 1, 2018.

5. Michelle Kirkpatrick applied for initial Certified Reporter certification. Ms. Kirkpatrick successfully passed the program examination and has submitted a completed application demonstrating that she meets the minimum education requirements and has provided proof of passing the RPR or the CVR. Ms. Kirkpatrick disclosed several cases including a 1994 and 1998 dissolution of marriage, a 1996 small claims case regarding a tenant in which she was listed as a plaintiff and two orders of protection in which she was also listed as a plaintiff.

Ms. Kirkpatrick also disclosed two criminal cases that occurred in 1996. One she was convicted for simple assault and fined \$50.00 and the other was for striking an unattended motor vehicle and fleeing the scene. Ms. Kirkpatrick did however, fail to disclose a 2003 and 2009 judgement

case in which she was listed as a defendant. Both matters were satisfied and ultimately dismissed. Out of the nine matters that should have been disclosed, Ms. Kirkpatrick disclosed seven. Ms. Kirkpatrick stated, “There certainly was nothing intentional about my not listing them the first time around.”

Ms. Kirkpatrick’s criminal matters were over 22 years ago and at the conclusion of Division’s investigation, she has not incurred any criminal charges or convictions. Ms. Kirkpatrick has since served in various memberships within the court reporter profession including receiving several NCRA certifications and distinctions.

The Division recommends approval of initial certification for Michelle Kirkpatrick with the standard non-disclosure language.

6. Stacy Harlow applied for initial Court Reporter certification. Ms. Harlow successfully passed the program examination and has submitted a completed application. The only remaining issue with this application is the verification letter from the NCRA validating Ms. Harlow’s RPR or CVR.

The Division recommends approval of initial certification for Stacy Harlow conditioned upon the Division’s receipt of confirmation from the NCRA that she has passed the RPR or CVR. The certification will become effective upon Division’s receipt of the required confirmation.

7. Benjamin Bamford – Staff will provide information and a recommendation at the Board meeting.

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4) CERTIFICATION AND ELIGIBILITY

4-A: Review, discussion and possible action regarding request for placement on Inactive Status received from the following certified reporters:

1. Lori Beard, Certificate Number 50773
2. Lisa Blanks, Certificate Number 50599
3. Kathleen Braley, Certificate Number 50236
4. Bernadette Chari, Certificate Number 50748
5. Laurel Dunn, Certificate Number 50696
6. Kathleen Johnston, Certificate Number 50164
7. Marilou Kohut, Certificate Number 50840
8. Christine Olesek, Certificate Number 50128
9. Diane Pessagno, Certificate Number 50943
10. Nicole Sesta, Certificate Number 50854

The above listed certificate holders have submitted requests to place their certified reporter certifications on Inactive Status prior to the February 28, 2018 expiration date. Division Staff has confirmed there are no pending complaints filed against them. As evidenced by the code excerpt below, the Board alone has the authority to approve such requests and, due to the cancelation of the February Board meeting during the submissions of their inactive request, the above listed applicants have expired.

Staff recommends that the Board retroactively grant the Inactive requests for the above listed applicants to March 1, 2018. In doing so, above listed applicants will be required to file a Good Cause Exception addressed to the Division Director as well as submit an Inactive Renewal application with the applicable \$100.00 fee.

ACJA § 7-201(E)(8)(a) reads:

A certificate holder may transfer to inactive status, upon written request to the board. Upon recommendation of division staff the board may accept the transfer of the certificate holder to inactive status and division staff shall note in the certification database the certificate holder in on inactive status, in good standing. The inactive certificate holder shall not engage in the practice of the profession or occupation of certification pro bono or for a fee or other compensation while on inactive status and shall not present themselves as a certificate holder.

Staff recommends that the Board accept the requests and place the above listed certificate holders on Inactive Status.

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4) CERTIFICATION AND ELIGIBILITY

4-B: Review, discussion and possible action regarding request for Voluntary Surrender from Holly Sack.

Holly Sack, Certificate Number 50060, is currently active and in good standing and Division Staff has confirmed there are no pending complaints filed against her.

ACJA § 7-201(E)(7) reads:

A certificate holder in good standing may surrender their certificate to the board. However, the surrender of the certificate is not valid until accepted by the board. The board or division staff may require additional information reasonably necessary to determine if the certificate holder has violated any provision of the statutes, court rules and this section or the applicable section of the ACJA. The surrender does not prevent the commencement of subsequent discipline proceedings for any conduct of the surrendered certificate holder occurring prior to the surrender.

It is recommended the Board accept the request of Ms. Sack to voluntarily surrender her certified reporter certification, certificate number 50060.